

REMARKS

Claims 1-64 are pending in the instant application. Of these, claims 3-5, 10-18, 21-31, 37-42, 46, 47, 51-55 and 58-64 have been withdrawn from consideration. Claims 1-2, 6-9, 19-20, 32-34, 43-45, 48-50 and 56-57 are rejected. Applicants have now amended claims 1, 13, 14, 33, 43, 51, 56 and 57. Applicants have canceled claims 16, 17, 35-42 and 58-64 without prejudice or disclaimer to the subject matter claimed therein. New claims 65-70 have been added. Applicants respectfully request reconsideration of the rejection in view of the following remarks.

Applicants respectfully submit that the amended claims and new claims are fully supported by the specification as originally filed. In particular, the amendment to claim 1 finds support in Paragraph [0015], for instance. The amendment to claim 43 is supported, for example, by Paragraph [0046]. New claims 65 and 66 are supported, for example, by Paragraph [0071]. New claims 67-70 are the same as old claims 35, 38, 41 and 42, but without the “wings” limitation.

Applicants respectfully submit that the new claims belong to the elected species.

Claim Rejections – 35 USC §112

Claims 1 and 43 are rejected under 35 U.S.C. §112, second paragraph, on being indefinite, specifically the phrase “...wherein said body contacting surface is loosely coupled to human skin to allow ease of movement”. In response, Applicants respectfully submit that the instant amendment of these claims renders this rejection moot.

Claim Rejections – 35 USC §102

Claims 1-2, 6-9, 19-20, 43-45 and 48-50 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,998,008 to Klesa (hereinafter referred to as “Klesa”). Applicants respectfully traverse this rejection.

In particular, Applicants respectfully submit that Klesa does not disclose, either expressly or implicitly, the invention of independent claim 1 comprising a step member having a minimum elongation of at least 100 percent. In contrast, the restraint of Klesa is leather, which does not have this property. See col. 2, lines 23-26.

Applicants furthermore respectfully submit that Klesa neither expressly nor implicitly discloses the invention of independent claim 43 comprising a viscoelastic patch whose body contacting surface features an adhesive.

Applicants furthermore respectfully submit that Klesa neither expressly nor implicitly discloses the invention of independent claim 65 comprising a step member having a force constant in a range of 0.1 to 5 pounds per inch.

Applicants furthermore respectfully submit that Klesa neither expressly nor implicitly discloses the invention of independent claim 67 comprising a viscoelastic patch, wherein at the central portion the body contacting surface is constrained from movement relative to the skin to which the patch is engaged.

Accordingly, Applicants respectfully request that this rejection be withdrawn.

Claim Rejections – 35 USC §103

Claims 32 and 56 are rejected under 35 U.S.C. §103(a) as being unpatentable over Klesa in view of U.S. Patent No. 6,155,999 to Bartlett (hereinafter referred to as “Bartlett”). In response, Applicants respectfully submit that instant amendment of claims 1 and 43 (upon which claims 32 and 56 ultimately depend) should render this rejection moot. Specifically, neither Klesa nor Bartlett, whether taken individually or in permissible combination, discloses or suggests the invention of independent claim 1 comprising a step member featuring a material having a minimum elongation of 100 percent. Specifically, Bartlett neither discloses nor suggests this property, and as such fails to remedy this deficiency in Klesa discussed above.

Similarly, Applicants respectfully submit that neither Klesa nor Bartlett, whether taken individually or in permissible combination, discloses or suggests the invention of independent claim 43 comprising a viscoelastic patch whose body contacting surface comprises an adhesive. These properties (viscoelasticity and percent elongation) are significant to the claimed invention because this kind of stretchability means that vibrational energy imparted to tissue can be absorbed by the vibrational energy stretching the material of the step member. See, for example, Paragraphs [0071] and [0074] of the instant specification.

Accordingly, Applicants respectfully request that this rejection be withdrawn.

Claims 33-34 and 57 are rejected under 35 U.S.C. §103(a) as being unpatentable over Klesa. Applicants respectfully traverse this rejection.

The Action itself admits that Klesa neither discloses nor suggests discloses or suggests the properties claimed in claims 33 and 57. Furthermore, Applicants respectfully submit that Klesa neither discloses nor suggests the invention of independent claim 1 (upon which claims 33 and 34 ultimately depend) comprising a step member having a minimum elongation of 100 percent. Again, the significance of this property to the claimed invention is that stretching is how the claimed device absorbs vibrational energy. As such, the selection of a material for the step member having this property is not a mere design choice.

Accordingly, Applicants respectfully request that this rejection be withdrawn.

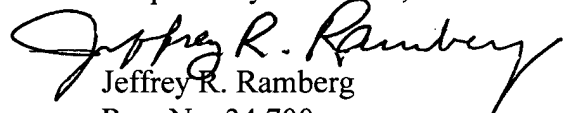
Rejoinder

Claims 3-5, 10-18, 21-31, 37-42, 46, 47, 51-55 and 58-64 were withdrawn from consideration as being directed to a non-elected invention. However, the claims from which withdrawn claims 3-5, 10-15, 18, 21-31, 46, 47, and 51-55 depend, namely independent claims 1 and 43, are generic, and should now be in allowable condition. A generic claim is a type of "linking claim". Nonelected claims depending from or otherwise including all of the limitations of an allowable linking claim, previously withdrawn from consideration, are to be rejoined and fully examined for patentability under 37 CFR §1.104. See MPEP §809.04.

In view of the amendments and the above remarks, Applicants respectfully submit that the present invention is in condition for allowance. Accordingly, Applicants respectfully request issuance of a Notice of Allowance directed to claims 1-2, 6-9, 19-20, 32-34, 43-45, 48-50, 56-57 and 65-70. Applicants furthermore request rejoinder of claims 3-5, 10-15, 18, 21-31, 46, 47, and 51-55.

Should the Examiner deem that any further action on the part of Applicants would be desirable, the Examiner is invited to telephone the undersigned associate attorney of record.

Respectfully submitted,


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